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A.J.

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/140,717

08/26/98

ROSENBERG

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EXAMINER

BRIER, J

ART UNIT

PAPER NUMBER

2779

DATE MAILED:

01/11/00

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

## Office Action Summary

Application No.

09/140,717

Applicant(s)

ROSENBERG ET AL.

Examiner

Jeffery A Brier

Art Unit

2779

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

### Status

- 1) ☒ Responsive to communication(s) filed on 26 August 1998.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 74-105 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 74-105 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some \* c) ☐ None of the CERTIFIED copies of the priority documents have been:
1. ☐ received.
2. ☐ received in Application No. (Series Code / Serial Number) \_\_\_\_\_.
3. ☐ received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. & 119(e).

### Attachment(s)

- 14) ☒ Notice of References Cited (PTO-892)
- 15) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 16) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 17) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 18) ☐ Notice of Informal Patent Application (PTO-152)
- 19) ☐ Other: \_\_\_\_\_.

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## **DETAILED ACTION**

### ***Response to Amendment***

1. The preliminary amendment filed on 8/26/98 has been entered.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 75-78, 81, 82, 84-94, and 104 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
4. Claim 75 is indefinite because at line 2 "said rigid portion" lacks antecedent basis.
5. Claim 77 is indefinite because at line 2 "said gimbal" lacks antecedent basis and at line 3 "said first degree of freedom actuator" lacks antecedent basis.
6. Claim 84 is indefinite because a claim from which this claim depends upon (claim 74) already has a linkage mechanism.
7. Claim 85 is indefinite because a claim from which this claim depends upon (claim 75) already has frictional engagement.
8. Claim 86 is indefinite because a claim from which this claim depends upon (claim 82) already has a curved drive bar.

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9. Claim 87 is indefinite because a claim from which this claim depends upon (claim 82) defined the bar as curved while this claim defines the bar now as linear

10. Claim 92 is indefinite because at line 1 "said linkage" lacks antecedent basis and at line 2 "said degree of freedom" lacks antecedent basis.

11. Claim 93 is indefinite because at line 3 "said first degree of freedom actuator" lacks antecedent basis.

12. Claim 94 is indefinite because at line 10 of the text "said actuator" lacks antecedent basis.

13. Claim 104 is indefinite because at line 2 "said translation" lacks antecedent basis.

***Claim Rejections - 35 USC § 102***

14. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

15. Claims 83, 94, 96-103, and 105 are rejected under 35 U.S.C. 102(e) as being anticipated by Gillio, U.S. Patent No. 5,704,791. Figures 4 and 5 and column 6 line 61 to column 7 line 32 describe a drive bar (solid or flexible tube) driven by rollers controlled by computer controlled stepper motors or friction devices.

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### ***Double Patenting***

16. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

17. Claims 74-105 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 37 of U.S. Patent No.


5,731,804. Although the conflicting claims are not identical, they are not patentably distinct from each other because the patent and this application are claiming a user manipulable object connected to a linkage with actuators connected to the linkage to cause force to be feed to the user. The patent and these claims are using different words to claim the same thing and it should be noted that figures 1-10 of the patent and this application are identical. Figures 3, 4, 6, 7, and 8 illustrate the drive bar and the linkages forming the gimbal that was broadly claimed in the patent and more narrowly claimed in this application. Thus, these claims which are more narrower in some respects are obvious variations of the thing already patented.

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18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffery A Brier whose telephone number is (703) 305-4723. The examiner can normally be reached on M-F from 8:00 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven J Saras, can be reached on (703) 305-9720. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-6606.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3800.

  
Jeffery A Brier  
Primary Examiner  
Art Unit 2775  
1-10-2000